

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI
BEFORE SHRI PRASHANT MAHARISHI, AM AND SHRI PAVAN KUMAR GADALE, JM

ITA No. 1477/Mum/2019

(Assessment Year 2011-12)

M/s Suindu & co. 33, Jupiter Bldg Cuffe Parade Mumbai-400 005	Vs.	The Asst. Commissioner of Income-tax, 17(3), Aayakar Bhaan M.K. Road, Mumbai-400 020
(Appellant)		(Respondent)
PAN No. AACFS5934P		

Assessee by	:	None
Revenue by	:	Shri Hoshang B. Irani, DR

Date of hearing:	14.03.2022
Date of pronouncement :	25.03.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the assessee against the order passed by the learned Commissioner of Income Tax (Appeals)-28, Mumbai [in short the learned CIT(A)] dated 8th February, 2019 therein the deduction claimed under section 35AC of Rs.7,50,000/- was disallowed. The assessee has raised the following grounds of appeal:-

"On the facts and in the circumstances of the case and in law, the Ld CIT (A)-28, Mumbai erred in confirming disallowance made by Ld. ACIT-17(3), Mumbai in respect of donation of Rs. 7,50,000/- given to Navjivan Charitable Trust on the basis of alleged information from investigation wing without any independent inquiry and without granting any

opportunity for cross examination and without bringing any material evidence on record to conclusively prove that the donation was indeed in the nature of accommodation entry.”

02. The brief fact of the case shows that assessee is a partnership firm engaged in the business of commission, forex brokerage, etc. It filed its return of income on 30th September, 2011 declared total income of Rs.57,95,190/-. The return was processed under section 143(1) of the Act. Subsequently, the case of the assessee was reopened by issue of notice under section 148 of the Act dated 24th March, 2017 based on the information that Navjivan Charitable Trust to whom assessee has donated of Rs.7,50,000/- was merely in fact accommodation entry and amount was returned in cash. Therefore, during the course of assessment proceedings, assessee was asked to explain that why the above donation should not be disallowed. The assessee submitted that it has given donation in good faith on 10th May, 2010. However, the registration was withdrawn on 20th December, 2016. It relied on the decision of the Hon'ble Bombay High Court in case of National Leather Cloth Manufacturing Co. Vs. Indian Council of Agricultural Research [2000] 241 ITR 482 (Bombay). The learned Assessing Officer rejected the contention of the assessee disallowed the above donation determining the total income of Rs.62,39,620/- by order dated 22nd December, 2017. The assessee preferred the appeal before the learned CIT(A) who also confirmed the above disallowance and dismissed the appeal.



03. This appeal was fixed for hearing on 24th March, 2021, 9th January, 2021 and 16th August, 2021 on all the three occasions none represented the assessee. Further, on 14th March, 2022 assessee did not turn up in view of this appeal of the assessee is decided on the basis of the facts available on record.
04. The learned Departmental Representative relied upon the order of the lower authorities and decision of the Hon'ble Supreme Court in the case of CIT vs. Batanagar Education And Research Trust [2021] 129 taxmann.com 30 (SC).
05. We have carefully considered the rival contentions and find that the issue is squarely covered against the assessee in case of the decision of Govindram & Co. for Assessment Year 2010-11 in ITA no 1475/ M/2019 of event date wherein on identical facts and circumstances, we have dismissed the appeal of the assessee. For the same reasons the appeal of the assessee is dismissed.
06. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 25.03.2022.

Sd/-
(PAVAN KUMAR GADALE)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 25.03.2022

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai